

Message Text

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12
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L/M - MR. SHAMWELL

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R 192015Z SEP 75
FM SECSTATE WASHDC
TO AMEMBASSY VIENTIANE

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E.O. 11652: N/A
TAGS: PFOR, LA, US
SUBJECT: EMBASSY'S OCCUPIED COMPOUNDS
REF: VIENTIANE 05566

1. DEPARTMENT HAS ORIGINAL DEED OF PURCHASE FOR GSO AND SILVER CITY COMPOUNDS. DEED IS ACCOMPANIED BY OFFICIAL AUTHORIZATION TO SELL, SIGNED AND SEALED BY MINISTER OF FINANCE. AUTHORIZATION IS NUMBERED AS DOCUMENT 319 AND DATED SEPTEMBER 18, 1961. WE BELIEVE THIS DEMONSTRATES EXPRESS LAO GOVERNMENT CONSENT TO PURCHASE OF COMPOUNDS AND, THEREFORE, U.S. COMPLIANCE WITH ARTICLE 12 OF VIENNA CONVENTION, IF APPLICABLE.

2. BUT BELIEVE ARTICLE 12 NOT REPEAT NOT APPLICABLE IN ANY EVENT. QUOTE LOCALITY UNQUOTE REFERRED TO IN ARTICLE 12 WAS INTENDED, ACCORDING TO NEGOTIATING HISTORY, TO MEAN TOWN, CITY, METROPOLITAN AREA, ETC. THAT IS, ARTICLE 12 REQUIRES EXPRESS HOST GOVERNMENT CONSENT TO ESTABLISH OFFICES IN CITY OTHER THAN SEAT OF MISSION,
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NOT REPEAT NOT TO ESTABLISH OFFICES ON NON-APPURTENANT LAND IN SAME CITY. ARTICLE 12 SHOULD NOT, THEREFORE, APPLY TO GSO OR SILVER CITY SINCE THEY ARE IN VIENTIANE.

3. FURTHER, FACILITIES AT COMPOUNDS WOULD NOT SEEM TO BE QUOTE OFFICES UNQUOTE WITHIN INTENDED MEANING OF ARTICLE. QUOTE OFFICES UNQUOTE INTENDED TO MEAN BRANCHES OF MISSION ITSELF ON WHICH OFFICIAL GOVERNMENT BUSINESS TRANSACTED,

E.G., A SEPARATE MILITARY ATTACHE'S OFFICE OR AN INFORMATION OFFICE, NOT REPEAT NOT ANY REAL ESTATE WHATSOEVER. ABILITY OF FOREIGN GOVERNMENT TO OWN REAL ESTATE FOR PURPOSES OTHER THAN OFFICIAL BUSINESS DEPENDS ON LOCAL LAW. MIN FIN AUTHORIZATION (PARA 1) INDICATES SUCH OWNERSHIP PERMITTED IN LAOS.

4. OTHER ARTICLES OF VIENNA CONVENTION CONFIRM LEGALITY OF COMPOUNDS AND ILLEGALITY OF THEIR SEIZURE. ARTICLE 21(2) PROVIDES THAT RECEIVING STATE QUOTE SHALL ALSO, WHERE NECESSARY, ASSIST MISSIONS IN OBTAINING SUITABLE HOUSING FOR THEIR MEMBERS UNQUOTE. LAOS WAS THUS OBLIGATED TO ASSIST IN USG'S OBTAINING HOUSING FACILITIES LIKE THOSE AT SILVER CITY. MIN FIN AUTHORIZATION (PARA 1) WOULD SEEM TO HAVE BEEN IN FULFILLMENT OF THAT DUTY.

5. ARTICLE 30(1) STATES PRIVATE RESIDENCE OF DIPLOMATIC AGENTS ENJOY SAME INVIOABILITY AS MISSION PREMISES. ARTICLE 22(2) PROVIDES THAT LOCAL GOVERNMENT AGENTS MAY NOT ENTER SUCH PREMISES WITHOUT MISSION CONSENT, AND 22(3) SAYS PREMISES, FURNISHINGS, AND PROPERTY THEREON ARE IMMUNE FROM SEARCH OR REQUISITION. LAO GOVERNMENT HAS CLEARLY VIOLATED THESE PROVISIONS AT LEAST WITH RESPECT TO SILVER CITY.

6. FYI: SUGGESTION IN REFTEL THAT ARTICLE 12 INAPPLICABLE BECAUSE LEASE ANTEDATED CONVENTION LACKS MERIT. VIENNA CONVENTION, INCLUDING ARTICLE 12, WAS NOT NEW LAW BUT, IN MOST MATERIAL RESPECTS, CODIFICATION OF EXISTING LAW. BECAUSE ARTICLE 12 NOT APPLICABLE FOR OTHER REASONS, AND BECAUSE LAOS CONSENTED ANYWAY, THIS POINT NOT IMPORTANT. KISSINGER
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